

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

TINA G.,

Plaintiff,

v.

Civil Action No. 2:24-cv-00242

LELAND DUDEK,<sup>1</sup>  
Acting Commissioner of  
Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the court is the Proposed Findings and Recommendation ("PF&R") of United States Magistrate Judge Dwane L. Tinsley, entered on February 14, 2025. ECF No. 51.

Judge Tinsley recommends granting the defendant's Motion to Dismiss, (ECF No. 12), and Supplemental Motion to Dismiss, (ECF No. 44); that all remaining pending motions be denied; and that this civil action be dismissed pursuant to Rules 12(b)(1) and 12(h)(3) of the Federal Rules of Civil procedure inasmuch as the court lacks subject matter

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<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 25(d), Leland Dudek, Acting Commissioner of Social Security, is substituted as the defendant in place of Michelle A. King.

jurisdiction over plaintiff's claim, which remains pending before the defendant Commissioner. PF&R at 1-2, 10.

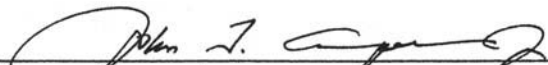
In reviewing a PF&R, the court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Upon the filing of an objection to a PF&R, the court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." Id. Failure to object to a PF&R constitutes waiver of de novo review, in which case the court reviews the PF&R for clear error. See Fed. R. Civ. P. 73 Advisory Committee Notes.

There being no objections to the PF&R, which were due by March 3, 2025, and after review for clear error and finding none, it is ORDERED that the PF&R be, and it hereby is, adopted by the court and incorporated herein. It is, therefore, ORDERED as follows:

1. The defendant's Motion to Dismiss, ECF No. 12, is GRANTED,
2. The defendant's Supplemental Motion to Dismiss, ECF No. 44, is GRANTED,
3. All remaining pending motions are DENIED, and
4. This matter shall be, and it hereby is, dismissed without prejudice.

The Clerk is directed to transmit copies of this order to any unrepresented parties, all counsel of record, and the United States Magistrate Judge.

ENTER: March 14, 2025

  
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John T. Copenhaver, Jr.  
Senior United States District Judge